

1995-96 SESSION  
COMMITTEE HEARING  
RECORDS

Committee Name:

JOINT  
COMMITTEE ON  
EMPLOYMENT  
RELATIONS (JC-  
ER)

Sample:

Record of Comm. Proceedings ... RCP

- 05hrAC-EdR\_RCP\_pt01a
- 05hrAC-EdR\_RCP\_pt01b
- 05hrAC-EdR\_RCP\_pt02

➤ Appointments ... Appt

➤ \*\*

➤ Clearinghouse Rules ... Crule

➤ \*\*

➤ Committee Hearings ... CH

➤ \*\*

➤ Committee Reports ... CR

➤ \*\*

➤ Executive Sessions ... ES

➤ \*\*

➤ Hearing Records ... HR

➤ \*\*

➤ Miscellaneous ... Misc

➤ 95hrJC-ER\_Misc\_pt05

➤ Record of Comm. Proceedings ... RCP

➤ \*\*

**SECTION B -**

**COMPENSATION PROVISIONS FOR ELECTED OFFICIALS,  
APPOINTED EXECUTIVE SALARY GROUP EMPLOYEES, AND  
CERTAIN OTHER UNCLASSIFIED EMPLOYEES**

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## **Section B - Compensation Provisions for Elected Officials, Appointed Executive Salary Group Employees, and Certain Other Unclassified Employees**

### **INTRODUCTION**

This section contains provisions governing the pay of all elected officials and certain unclassified civil service employees. For elected officials, this includes the annual salary rates for each elective office. For elected officials and appointed fixed-term employees this includes an explanation of the constitutional prohibition on pay adjustments during the term of office. For appointed indefinite-term unclassified employees, this includes many of the same types of provisions contained in Section A for nonrepresented classified employees (e.g., fiscal year pay adjustments, lump sum awards, supplemental pay, overtime). In addition, certain types of pay provisions contained in the Rules of the Secretary (Chapter ER, Wis. Adm. Code) for classified employees (e.g., six month increases, regrade increases upon reallocation and reclassification) are contained in this Plan for certain appointed indefinite-term unclassified employees.

All unclassified civil service employees are covered by pay provisions in this Section except for the following:

Employees of the University of Wisconsin System who are not identified under s. 20.923(4) and (4m), Stats.

Employees of the legislature who are not identified under s. 20.923(4), Stats.

Employees of a legislative service agency under subch. IV of ch. 13, Stats.

Employees of the state court system.

Employees of the Investment Board identified under s. 230.08(2)(p), Stats.

One stenographer employed by each elective executive officer under s. 230.08(2)(g), Stats.

Three sales representatives of prison industries and one sales manager of prison industries identified under s. 303.01(10), Stats.

Certain other compensation provisions, such as those relating to employer payments toward benefit contributions are contained in the Compensation Plan. The benefit provisions cover all nonrepresented unclassified employees including those not covered by the pay provisions of the Plan.

Compensation provisions for unclassified civil service employees covered by this Plan who would be Limited Term Employees (LTEs) if their employment were in the classified service are contained in Section D.

## **Section B - Compensation Provisions for Elected Officials, Appointed Executive Salary Group Employees, and Certain Other Unclassified Employees**

### **1.00 Coverage**

This Section covers justices and judges, legislative members and constitutional officers. This Section also covers appointed employees whose pay is governed by the Executive Salary Groups (ESGs) under s. 20.923, Stats., as well as certain other unclassified employees whose pay is not governed by the ESGs. Covered employees occupy the following positions:

- s. 20.923(2) - Constitutional Officers and Other Elected State Officials
- s. 20.923(3) - Justices and Judges
- s. 20.923(4) - State Agency Positions (including unclassified Division Administrators listed under 3.03(2))
- s. 20.923(4m) - University of Wisconsin System Executive Positions
- s. 20.923(5) - Other University of Wisconsin System Administrative Positions
- s. 20.923(8) - Deputies
- s. 20.923(9) - Executive Assistants
- s. 20.923(10) - Office of the Governor Staff
- s. 20.923(12) - Other Department of Regulation and Licensing Positions
- s. 230.12(1) - All other Unclassified Positions except those whose pay is specifically excluded from governance by the pay provisions under s. 230.12(1)(a)1.b., Stats.

All nonrepresented unclassified employees, including employees in positions not listed above, are covered by provisions governing employer contributions for health insurance premiums contained in 4.01. of this Section and state payment of employee retirement contributions under 4.02.

**NOTE:** Provisions regarding employees who would be considered limited term employees if their employment were in the classified service, are contained in Section D (Compensation Provisions for Limited Term Employees).

### **2.00 Pay Administration for Elected Officials under s. 20.923(2) and (3), Stats.**

#### **2.01 Pay Administration for Justices and Judges**

##### **(1) Annual Rates for Incumbents**

The rate for office becomes the incumbent's rate at the time any judge or justice takes the oath of office in accordance with s. 20.923(3), Stats., and

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Article IV, Section 26, of the Wisconsin Constitution. (Refer also to incumbent salary limitation under s. 20.923(15)(b), Stats.)

**(2) Annual Rates for Office**

Position	Incumbent's 6/25/95 Pay Rate	7/9/95-7/6/96 Rate For Office	FY 1996-97 Rate For Office
Circuit Court Judge	<u>\$86,289</u>	<u>\$88,880</u>	<u>\$90,661</u>
Court of Appeals Judge	<u>\$92,041</u>	<u>\$94,804</u>	<u>\$94,804</u>
Supreme Court Justice	<u>\$97,756</u>	<u>\$100,690</u>	<u>\$100,690</u>
Supreme Court Chief Justice	<u>\$105,756</u>	<u>\$108,690</u>	<u>\$108,690</u>

**2.02 Pay Administration for Legislative Members**

**(1) Legislative Compensation, Effective Date**

Article IV, Section 26 of the Wisconsin Constitution prohibits increasing or decreasing the compensation of public officers during their term of office except that any increase in the compensation of members of the legislature shall take effect, for all senators and representatives to the assembly, after the next general election beginning with the new assembly term. (Refer also to incumbent salary limitation under s. 20.923(15)(b), Stats.)

**(2) Annual Rates for Office**

	Incumbent's 06/25/95 Pay Rate	10/2/94-7/6/96 Rate For Office	FY 1996-97 Rate For Office
Legislative Member	<u>\$38,056</u>	<u>\$38,056</u>	<u>\$38,056</u>

**(3) Sick Leave Accrual for Legislators**

For the purposes of premium determinations under s. 40.05(4) and (5), Stats., legislative members shall accrue sick leave at 65% of the full time accrual rate established under s. ER 18.03, Wis. Admin. Code.

**Section B - Compensation Provisions for Elected Officials, Appointed Executive Salary Group Employees, and Certain Other Unclassified Employees**

**2.03 Pay Administration for Constitutional Officers**

**(1) Annual Rates for Incumbents**

The "Rate for Office" becomes the incumbent's rate at the time the incumbent begins his or her term of office. "Incumbent's 6/25/95 Pay Rate," as provided in the Chart under (2), is based on the rate for office in effect on the date the incumbent in the office on 6/25/95 began his or her term of office. For the State Superintendent of Public Instruction a new term of office began on 7/5/93 (i.e., the first Monday in July after election). For all other Constitutional Officers listed below, the current term of office began on 01/02/95 (i.e., the first Monday in January after election).

Article IV, Section 26, of the Wisconsin Constitution prohibits compensation increases or decreases for incumbent Constitutional Officers during the term of office. Refer also to incumbent salary limitation under s. 20.923(15)(b), Stats.)

**(2) Annual Rates for Offices**

The "Rate for Office" for the Constitutional Offices listed in the chart below, except for the Office of Attorney General, are based on the Executive Salary Groups under Section H of this Plan.

Constitutional Office	Executive Salary Group	Incumbent's <u>6/25/95</u> Pay Rate	FY 1995-96 Rate For Office	FY 1996-97 Rate For Office
State Treasurer	1	<u>\$49,719</u>	<u>\$49,719</u>	\$ 49,719
Secretary of State	1	<u>\$49,719</u>	<u>\$49,719</u>	\$ 49,719
Lieutenant Governor	4	<u>\$54,795</u>	<u>\$54,795</u>	\$ 54,795
State Superintendent, Public Instruction	7	<u>\$85,502</u>	<u>\$85,502</u>	\$ 85,502
Attorney General	--	<u>\$97,756</u>	*	*
Governor	10	<u>\$101,861</u>	<u>\$101,861</u>	\$101,861

\*Per 20.923(2)(e) Stats., rate set at same amount as an associate justice, of the supreme court.

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**2.04 Pay Administration for District Attorneys**

The rates for office of District Attorneys in effect until 1995, were set under s. 978.12(1)(a)1., Stats. For terms effective January 2, 1995 or later, the rates for office are established in the Compensation Plan, in the manner set forth under s. 230.12(3), Stats. Pursuant to s. 978.12(1)(a)2., Stats., any individual appointed to fill a vacancy in the office of district attorney shall be compensated for the residue of the unexpired term at the same rate that applied to the individual who vacates the office filled by the appointee on the date the vacancy occurs. (Refer also to Section 3058(1f)(a), of 1989 Wisconsin Act 31 for information pertaining to continuing salaries of District Attorneys paid a salary on 1/1/90 in excess of the rate for office.) (Refer also to incumbent salary limitation under s. 20.923(15)(b), Stats.)

Prosecutorial Unit Size (as determined under s. 978.12(1)(a)), Stats	1995 Rate For Office	<u>7/9/95- 7/6/96 Rate For Office</u>	<u>FY 96-97 Rate For Office</u>
More than 500,00	\$92,442	<u>\$93,367</u>	<u>\$95,236</u>
More than 250,000 but not more than 500,00	\$83,328	<u>\$84,165</u>	<u>\$85,850</u>
More than 100,000 but not more than 250,000	\$78,772	<u>\$79,563</u>	<u>\$81,156</u>
More than 75,000 but not more than 100,000	\$74,214	<u>\$74,959</u>	<u>\$76,458</u>
More than 50,000 but not more than 75,000	\$69,658	<u>\$70,357</u>	<u>\$71,765</u>
More than 35,000 but not more than 50,000	\$65,100	<u>\$65,753</u>	<u>\$67,069</u>
More than 20,000 but not more than 35,000	\$60,544	<u>\$61,151</u>	<u>\$62,375</u>
Not more than 20,000	\$55,988	<u>\$56,551</u>	<u>\$57,683</u>

**3.00 Pay Administration for Appointed Unclassified Employees**

**3.01 Coverage**

This section applies to the following employee groups:

- (1) "ESG" employees in positions identified under ss. 20.923(4), (4m), (8), (9), and (12), Stats., in the executive or legislative branches; and
- (2) All other unclassified civil service ("Non-ESG") employees in the executive branch, except:

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- (a) Employees of the University System who are not employees in positions under 3.01(1).
- (b) Stenographers under s. 230.08(2)(g), Stats.
- (c) Employees of the Investment Board under s. 230.08 (2)(p), Stats.
- (d) Three sales representatives of prison industries and one sales manager of prison industries identified under s. 303.01(10), Stats.
- (e) Employees who would be limited term employees if their employment were in the classified service. (See Section D.)

**NOTE:** The legislative branch includes the legislature and legislative service agencies under subch. IV of Chapter 13, Stats. The executive branch includes all other units of state government outside the state court system. Incumbents of positions in the organized militia and conservation corps enrollees are employed outside the civil service and, therefore, are not covered by this Plan. See s. 230.03(6), Stats., and s. 16.20(10)(b), Stats., respectively.

**3.02 Pay Upon Appointment**

- (1) The rate payable upon appointment to any unclassified civil service position identified in 3.01(1) ("ESG" position) shall be set by the appointing authority at a rate that most adequately reflects both the individual's qualifications and the economic and employment conditions prevailing at the time of appointment subject to the following restraints:
  - (a) For positions identified under s. 20.923(4) and (4m), Stats., the rate must be within the range of the appropriate Executive Salary Group. See 3.04 for special provisions regarding fixed term positions under s. 20.923(4), Stats.
  - (b) For positions identified under s. 20.923(5) and (8) through (12), Stats., the rate must not exceed the maximum of the appropriate Executive Salary Group.
  - (c) For positions identified under ss. 20.923(2), (3), (4), (5), (6), (8), (9), and (10), Stats., except for certain executive positions in the University of Wisconsin System specified in (4)(j) and (4m), the rate



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paid to an incumbent may not equal or exceed that amount paid the governor (salary paid to current incumbent). (See Sec. 20.923(15)(b), Stats.)

**NOTE:** Executive positions in the University specified under s. 20.923(4)(j) and (4m), Stats., are not limited by the governor's salary.

- (2) The rate payable upon appointment to an unclassified civil service position identified in 3.01(2) ("Non-ESG" position) shall be determined in accordance with the principle of equal pay for work that requires equal skill, effort, and responsibility, and that is performed under similar working conditions. Thus, the rate upon appointment should be equal to the rate that would be payable upon appointment to a similar position in the classified service, as determined by the appointing authority. In addition, the rate shall not exceed the pay rate or range maximum under 3.03(3). The provisions of Section E regarding Hiring Above the Minimum are not applicable in determining pay upon appointment of assistant and deputy district attorneys unless specifically authorized in writing by the agency (i.e., Department of Administration) responsible for the general program operations relating to Chapter 978, Stats., and unless the requirements of Section E of this Plan are met.

**NOTE:** Certain appointments are also subject to s. 230.148, Stats., regarding reappointments in the unclassified service, and s. 230.33(3), Stats., regarding appointments to positions in the unclassified service from positions in the classified service.

**3.03 ESG and Pay Range Assignments and Other Pay Rate Limitations for Positions Not Assigned by Statute**

- (1) **ESG Limitations for the Deputy and Executive Assistant in the Department of Justice.**

In the Department of Justice, the rate for the Deputy under s. 20.923(8), Stats., and Executive Assistant under s. 20.923(9), Stats., shall not exceed the maximums of ESG 6 and ESG 5, respectively.

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**(2) ESG Assignments of Unclassified Division Administrators.**

Except as provided under s. 20.923(4)(c)3m, Stats., regarding the Division of Merit Recruitment and Selection, and s. 20.923(12), Stats., regarding the Department of Regulation and Licensing, all unclassified Division Administrator positions authorized under s. 230.08(2)(e), Stats., shall be assigned, when approved by the Joint Committee on Employment Relations, by the Secretary of the Department of Employment Relations to one of the 10 Executive Salary Groups. The following list represents the group assignments as of the printing of this document:

**(a) Positions assigned to Executive Salary Group 1 (ESG 1).**

1. Development, Department of; Division of Administrative Services.
2. Public Service Commission; Division of Administrative Services.

**(b) Positions assigned to Executive Salary Group 2 (ESG 2).**

1. Administration, Department of; Division of Housing and Office of Justice Assistance.
2. Agriculture, Trade and Consumer Protection, Department of; Division of Management Services.
3. Development, Department of; Division of Community Development and Division of Policy and Information Services.
4. Educational Communications Board; Division of Education, Division of Engineering, Division of Television Programming/Operations, and Division of Wisconsin Public Radio.
5. Employment Relations, Department of; Division of Affirmative Action.
6. Justice, Department of; Division of Management Services.

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7. Department of Military Affairs; Division of Emergency Government.

(c) Positions assigned to Executive Salary Group 3 (ESG 3).

1. Administration, Department of; Division of Administrative Services, Division of Buildings and Police Services, and Division of Energy and Intergovernmental Relations.
2. Agriculture, Trade and Consumer Protection, Department of; Division of Agricultural Resource Management, Division of Food Safety, Division of Marketing and Division of Trade & Consumer Protection.
3. Development, Department of; Division of Tourism Development and Division of Economic Development.
4. Employment Relations, Department of; Division of Classification and Compensation and Division of Collective Bargaining.
5. Industry, Labor and Human Relations, Department of; Division of Administrative Services, Division of Equal Rights and Division of Workers Compensation.
6. State Historical Society; Division of Archives & Research Services, Division of Museum, Library Division, and Division of Development and State Relations.
7. Justice, Department of; Division of Law Enforcement Services and Division of Narcotics and Enforcement.
8. Natural Resources, Department of; Division of Management Services.
9. Public Defender, Office of; Appellate Representation Division.
10. Public Instruction, Department of; Division of Libraries and Community Learning, and Division of Management and Budget.

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11. Public Service Commission; Division of Electric, Division of Natural Gas, Division of Telecommunications, and Division of Water Compliance and Consumer Affairs.
  12. Revenue, Department of; Division of Administrative Services and Division of Research & Analysis.
  13. Veterans Affairs, Department of; Division of Veterans Home and Division of Veterans Programs.
  14. Wisconsin Technical College System Board; Division of Finance and Planning and Division of Program and Economic Development.
- (d) Positions assigned to Executive Salary Group 4 (ESG 4).
1. Administration, Department of; Division of State Facilities Development; Division of Finance and Program Management, and Division of State Agency Services.
  2. Agriculture, Trade and Consumer Protection, Department of; Division of Animal Health.
  3. Health and Social Services, Department of; Division of Management Services; Division of Youth Services.
  4. Industry, Labor and Human Relations, Department of; Division of Safety and Buildings, Division of Jobs Employment and Training Services, and Division of Unemployment Compensation.
  5. Natural Resources, Department of; Division of Enforcement.
  6. State Historical Society; Division of Historic Sites.
  7. State Public Defender, Office of; Trial Representation Division.
  8. Public Instruction, Department of; Division of Learning Support: Equity and Advocacy, Division of Learning Support:

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Instructional Services, and Division of School Financial Resources and Management Services.

9. Revenue, Department of; Division of State and Local Finance.
10. Transportation, Department of; Division of Business Management, Division of Transportation Assistance, Division of Planning, Division of Motor Vehicles and Division of State Patrol.

**(e) Positions assigned to Executive Salary Group 5 (ESG 5).**

1. Administration, Department of; Division of State Executive Budget and Planning, Division of Information Technology Services.
2. Health and Social Services, Department of; Division of Care and Treatment Facilities, Division of Community Services, Division of Economic Support and Division of Vocational Rehabilitation.
3. Justice, Department of; Division of Legal Services.
4. Natural Resources, Department of; Division of Environmental Quality and Division of Resource Management.
5. Transportation, Department of; Division of Highways and Transportation Services.

**(f) Positions assigned to Executive Salary Group 6 (ESG 6).**

1. Health and Social Services, Department of; Division of Health.

**(3) Pay Range Assignments for Other ("Non-ESG") Unclassified Positions**

Certain positions listed below are specifically assigned to an established pay rate or an established pay range or ESG. Other positions listed below are limited by a "not to exceed" (NTE) amount. Pay upon appointment and pay adjustments for any employee in a position limited by a NTE amount shall

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also be limited by the pay range maximum which would be applicable if the position were in the classified service as determined by the appointing authority.

**NOTE:** A "Not To Exceed" rate or maximum established for a position does not guarantee the assignment of the position to a certain pay range. The pay range established for a non-ESG position should be based on an analysis of the actual duties and responsibilities of the position by the appointing authority and a consideration of the pay range to which the position would be assigned if it were in the classified service.

- (a) Administration, Department of; Federal-State Relations Office, Staff Assistant (NTE PR 27-16).
- (b) Educational Communications Board; unclassified employees (NTE PR 27-17) other than employees identified under 3.01(1).

Exceptions to the NTE PR 27-17 limit for certain positions may be approved by the Department of Employment Relations if supported by a comparison of the functions assigned after reorganization to the functions of positions in the classified service above the PR 27-17 level.

- (c) Health and Social Services, Department of; Psychiatric Residents (NTE .75 of the minimum of PR 10-52), and Director of the Office of Health Care Information (NTE ESG 1).
- (d) Historical Society; Specialists identified under s. 230.08 (2)(c), Stats., (NTE PR 27-17).
- (e) Justice, Department of; Director of Research and Information (NTE PR 27-18).
- (f) Lower Wisconsin State Riverway Board, Executive Director (NTE PR 27-15).
- (g) Office of District Attorney, deputy and supervisory assistant district attorneys (NTE 49-75).

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- (h) Offices of the Governor and Lieutenant Governor, staff other than the Executive Secretary (NTE ESG 3).
- (I) Public Defender Board, attorneys other than positions identified under A.1. (NTE PR 49-75).
- (j) Waste Facility Siting Board, Executive Secretary (NTE PR 27-17).

**3.04 Salary Adjustments for Employees Serving a Fixed Term**

Certain incumbents of positions specified in s. 20.923(4) and (8), Stats., serve fixed terms. Incumbents of fixed-term positions are prohibited by Article IV, Section 26 of the Constitution from receiving pay increases during their term of office other than those granted pursuant to a predetermined schedule of increases authorized at the time of appointment. The pay range minimum and maximum for the Executive Salary Group in effect at the time of hire controls the salary potential during the period of the entire fixed term appointment. (Refer also to incumbent salary limitation under s. 20.923(15)(b), Stats.)

**3.05 Base Pay Adjustments and Lump Sum Awards for Fiscal Years 1995-96 and 1996-97 for Employees Not Serving a Fixed Term**

All pay increases for unclassified employees covered by this Plan must be in accordance with this Plan. These provisions apply to all employees covered by Section B of this Plan, who are not serving a fixed term.

NOTE: The proposed 1995-97 State budget bill includes a provision that would deny any pay adjustments during the 1995-97 biennium to any employees of the University of Wisconsin System identified under s. 20.923(4) or (4m), Stats., whose salary as of January 1, 1995, was at or above \$100,000/year. At the time of this writing, final action on the State budget bill had not yet occurred. If the proposed pay limitation is approved, certain incumbents of positions identified under s. 20.923(4) and (4m) will not be eligible to receive pay adjustments provided under this Section for which they would otherwise be eligible. Contact the Division of Classification and Compensation for more information.

**(1) General Discretionary Awards**

- (a) Effective Dates. General Discretionary Awards shall be effective July 9, 1995, and July 7, 1996.
- (b) Eligibility. All indefinite-term employees identified in 3.01 who are in pay status on the effective date are eligible to receive a General Discretionary Award, except:

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1. Employees paid at or above the applicable pay range or ESG maximum or NTE rate.
2. Employees under 3.03(3), who, if they remain in their current position, will become eligible to be considered for a six-month increase under 3.06 on or after the effective date of the General Discretionary Award distribution (unless an award is required by (c)4., due to pay range adjustments).
3. Employees in Assistant State Public Defender positions whose job performance was rated less than satisfactory a result of formal performance evaluations conducted in the fiscal year preceding the effective date of GDA distribution (unless the an award is required by (c)4., due to pay range adjustments).

(c) Amount.

Each appointing authority (whether individual, board or committee) shall have the sole discretion to distribute the monies from the fund generated each fiscal year under (d) by the employees whom they have the power to appoint by constitution or statute, subject to the restrictions below.

1. Awards must be based on recognized compensation factors, (e.g., performance, equity, or retention) that are applied in a uniform manner throughout the agency or employing unit to employees covered by this Section.
2. Employees in Assistant State Public Defender positions shall receive an increase of 1.0% and 2.0%, respectively, if the employee's job performance was rated at least satisfactory in the preceding fiscal year.
3. An employee's new base pay after application of the General Discretionary Award must not exceed the applicable pay range or ESG maximum or NTE rate.
4. Employees in positions specified in s. 20.923(4) or (4m), Stats., must be paid at least the new minimum of the appropriate executive salary group.



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5. Any employee identified in 3.03(3) who has completed six months in his or her position must be paid at least the new minimum of the pay range applicable to similar positions in the classified service plus the equivalent of one within range step of the applicable pay range. Other employees under 3.03(3) must be paid at least the applicable new pay range minimum that takes effect on the date of the award.
6. No employee may, during any fiscal year, receive a total cumulative base pay adjustment [General Discretionary Award, Discretionary Grid Adjustment, Performance Recognition Award, and Equity Award] exceeding a total of 10% of the employee's base pay at the beginning of the fiscal year, immediately prior to General Discretionary Award or Discretionary Grid Adjustment distribution, whichever is applicable.
7. For positions identified under ss. 20.923(2), (3), (4), (5), (6), (8), (9), and (10), Stats., except for certain executive positions in the University of Wisconsin System specified in (4)(j) and (4m), the rate paid to an incumbent may not equal or exceed that amount paid the governor (salary paid to current incumbent).

**NOTE:** Executive positions in the University specified under s. 20.923(4)(j) and (4m), Stats., are not limited by the governor's salary.

(d) **Funding.** Funds will be generated as follows:

1. Subject to 2. through 4., below, 1.00% and 2.00% of the active hourly payroll of indefinite-term employees identified under 3.01 is generated on July 9, 1995, and July 7, 1996, respectively, for distribution as General Discretionary Awards on those dates. **Funds generated have no bearing on the rights of individual employees to these funds.**
2. Funds for employees identified under 3.01 of this Section (Section B) shall not be combined with funds for classified employees of the agency.

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3. Employees Identified under s. 20.923(4), Stats., in the Legislative Branch. Funds generated for heads of legislative service agencies, whose salaries are set by the Joint Committee on Legislative Organization or the Legislative Council, shall be pooled and distributed to them as determined by the Joint Committee on Legislative Organization.
4. Employees Appointed By and Serving at the Pleasure of the Governor. Funds generated for employees appointed by the governor shall be pooled and distributed to them as determined by the governor.

**(2) Equity Awards**

- (a) Effective Dates. Cumulative Equity Awards may be recommended by the appointing authority to the Secretary, Department of Employment Relations at any time during fiscal years 1995-96 and 1996-97. Such awards will take effect on the first day of the pay period following approval by the Secretary of Employment Relations.
- (b) Eligibility. Equity awards will be approved only under exceptional or unique circumstances as necessary to correct pay anomalies. All employees identified in 3.01 are eligible except: employees described in 3.05(1)(b)1. and 2., and agency heads.

1. **Evidence of a pay inequity must be documented in writing to the Secretary, Department of Employment Relations.** It is not assumed that a pay inequity exists simply because a condition described under 1. or 2., below, is present. In some cases, minimal pay differentials between supervisors and subordinates, or higher pay rates for subordinates or incumbents of comparable level positions may be reasonable.

Therefore, documentation of a pay inequity must include the origin of the inequity (i.e., personnel or organizational changes that affected the pay relationship of this position relative to its subordinates or peers, negotiated market pay adjustments to represented subordinates, etc.), as well as addressing other recognized compensation factors. These include, but are not limited to, individual performance relative

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to others in the agency, possession of special knowledge or skills related to the position, and seniority/length of time in the position.

2. In addition, to be considered for an Equity Award, at least one of the following conditions must be met:

a) The incumbent's rate before the award must be below the midpoint of the applicable pay range or ESG. The applicable pay range for a position specified in 3.03(3) shall be the pay range to which the position would be assigned if the position were in the classified service.

b) The incumbent's pre-award rate must be more than 5% below the median rate of other incumbents in the applicable ESG or pay range within the agency. If there are no other positions at the same ESG or pay range within the agency, the pre-award rate must be more than 5% below the median rate of all other incumbents in the applicable ESG or pay range outside the agency.

c) The incumbent is a supervisor whose base pay rate is less than the equivalent of 2 within range pay steps above the base pay rate of the highest paid subordinate.

(c) Amounts. See 3.05(1)(c)3., and 7.

(d) Funding. See 2.01(3)(d) of Section A.

**(3) Legislative Branch Positions Identified Under s. 20.923(4), Stats.**

Incumbents of positions identified under s. 20.923(4), Stats., in the legislative branch, are eligible for base pay adjustments in addition to those granted under 3.05. The appointing authority may determine and make awards subject to the restrictions specified in 3.05(1)(c)1., 2., 5, and 6. Funding for these awards will be from the respective agency appropriations. The effective date for awards granted under this provision will be the

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beginning of the pay period closest to the approval of the award by the appointing authority.

**(4) Exceptional Performance Awards**

- (a) **Effective Dates and Amounts.** Noncumulative Exceptional Performance Awards may, at the discretion of the appointing authority, be granted at any time during the fiscal year to employees who demonstrate exceptional performance. Noncumulative Exceptional Performance Awards shall be granted in the form of one-time payments in any whole dollar increment from \$100 to \$1000. Employees shall be limited to two such awards in any fiscal year.
- (b) **Eligibility.** All indefinite-term employees identified in 3.01 are eligible, except employees identified under 3.05(1)(b)2. of this Section (Section B), deputies under s. 20.923(8), Stats., executive assistants under s. 20.923(9), Stats., and agency heads. Exceptional performance may include, but is not limited to, successful completion of temporary assignments or projects which are at a higher pay range or ESG level than the level of the employee's current position.
- (c) **Funding.** See 2.02(1)(c) of Section A.

**(5) Performance Recognition Awards**

- (a) **Effective Date.** Optional Performance Recognition Awards shall be effective January 7, 1996 and September 29, 1996. Use of the Optional Performance Recognition Award is at the discretion of the appointing authority.

NOTE: See (d), below, for information on the unfunded nature of this award. Pay plan supplements will not be available to fund the PRA amounts in either fiscal year.

- (b) **Eligibility.** All indefinite-term employees identified in 3.01 who are in pay status on the effective date are eligible to be considered for a Performance Recognition Award except the following:
  - 1. Employees paid at or above the applicable pay range or ESG maximum or NTE rate.

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2. Employees identified under 3.03(3), who, if they remain in their current position, will become eligible to be considered for six-month increase under 3.06 on or after the effective date of General Discretionary Award distribution.
  3. Employees in Assistant State Public Defender positions who were ineligible for a GDA in the same fiscal year because their job performance was rated below satisfactory.
- (c) Amount. Except as otherwise provided in this Plan, each appointing authority (whether individual, board or committee) shall have the sole discretion to distribute the monies from the fund generated each fiscal year under (d) by the employees whom they have the power to appoint by constitution or statute, subject to the restrictions below:
1. Performance Recognition Awards must be distributed solely on the basis of merit, as determined by the appointing authority. The criteria on which the Performance Recognition Award distribution is based shall be developed in accordance with the guidelines issued by the Secretary of the Department of Employment Relations and shall be applied in a uniform manner throughout the agency or employing unit.
  2. No employee may, during any fiscal year, receive a total cumulative adjustment [General Discretionary Award, Discretionary Grid Adjustment, Performance Recognition Award, and Equity Award] exceeding a total of 10% of the employee's base pay at the beginning of the fiscal year, immediately prior to General Discretionary Award or Discretionary Grid Adjustment distribution, whichever is applicable.
  3. An employee's new base pay after application of the Performance Recognition Award must not exceed the applicable pay range or ESG maximum or NTE rate.
  4. For positions identified under ss. 20.923(2), (3), (4), (5), (6), (8), (9), and (10), Stats., except for certain executive positions in the University of Wisconsin system specified in (4)(j) and (4m), the rate paid to an incumbent may not equal or exceed

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that amount paid the governor (salary paid to current incumbent).

**NOTE:** Executive positions in the University specified under s. 20.923(4)(j) and (4m), Stats., are not limited by the governor's salary.

5. As necessary, the Secretary of the Department of Employment Relations shall require approval of agency distribution criteria and award amounts prior to the granting of any Performance Recognition Awards.
- (d) **Funding. Funds generated have no bearing on the rights of individual employees to these funds.** Funds will be generated as follows:
1. a. On January 7, 1996, and September 29, 1996, each agency will generate an unfunded amount equal to 0.5% of the active hourly payroll of classified employees under Section A and indefinite-term unclassified employees under Section B for distribution as Performance Recognition Awards to eligible agency employees under those Sections. Any funds generated for Performance Recognition Awards on the effective date that are not distributed shall convert to EPA funds upon certification by the Department of Administration. (See Section A, 2.02(1)(c) of the this Plan.)
  2. Funds for indefinite-term unclassified employees under Section B (i.e., employees identified in 3.01) shall not be combined with funds for classified agency employees under A 2.01(2)(d)2.
  3. **Employees Identified under s. 20.923(4), Stats., in the Legislative Branch.** Funds generated for heads of legislative service agencies, whose salaries are set by the Joint Committee on Legislative Organization or the Legislative Council, shall be pooled and distributed to them as

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determined by the Joint Committee on Legislative Organization.

4. **Employees Appointed By and Serving at the Pleasure of the Governor.** Funds generated for employees appointed by the governor shall be pooled and distributed to them as determined by the governor.

**3.06 Pay on Completion of the First Six Months as a "Non-ESG" Employee**

**(1) Effective Date.**

Six month increases shall be effective the beginning of the pay period closest to the date the employee became eligible for the increase.

**(2) Eligibility.**

(a) Any employee if all the following conditions apply:

1. The employee has completed the first six months of continuous service as an employee under 3.01(2) ("non-ESG" employee), and
2. The employee's pay upon appointment to the current position was not set in recognition of a previously earned rate in the classified or unclassified service that included a six month increase under Chapter ER 29, or this Plan.

**(3) Amount**

- (a) Any employee under 3.01(2), who has completed the first six months of continuous service as an employee under 3.01(2) and who has completed six months in his or her current position shall be guaranteed the minimum of the applicable pay range plus the equivalent of one within range pay step or the PSICM of the applicable pay range, whichever is greater. For purposes of this paragraph, continuous county service of any supervisory assistant and deputy district attorney who transferred from county to state employment shall be treated as continuous service as an employee under 3.01(2).

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- (b) The within range pay step and PSICM shall be for the pay range which would be applicable if the position were in the classified service as determined pursuant to 3.03(3).

**(4) Funding.**

These increases are funded from each agency's salary line appropriation.

**3.07 Pay Increases If Level of Functions Increases**

**(1) Effective Dates.**

Pay increases for increases in level of functions shall be effective on the first day of the pay period following completion of all eligibility requirements.

**(2) Eligibility.**

Base pay increases may be granted to any employee under 3.01 if the Secretary of the Department of Employment Relations finds that the level of the duties and responsibilities has increased substantially and one of the following conditions applies:

- (a) The position occupied is reassigned under s. 20.923, Stats., to a higher executive salary group; or
- (b) The position occupied is not assigned to an ESG under s. 20.923, Stats., and the Secretary, Department of Employment Relations, finds that, if the position were assigned to an ESG under s. 20.923, Stats., or assigned to a classification in the classified service, reassignment of the position to a higher ESG or higher classification would be justified.

**(3) Amount.**

- (a) Pay increases for increases in level of duties and responsibilities shall be limited to:
  - 1. the amount necessary to make the incumbent's rate equal to the minimum of the new Executive Salary Group or applicable pay range, as determined by the Secretary, Department of Employment Relations; or



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2. One within-range pay step of the new Executive Salary Group or applicable pay range, as determined by the Secretary, Department of Employment Relations; or
3. For employees in attorney positions under 3.01(2), the PSICM of the pay range applicable to similar positions in the classified service.

**3.08 Overtime and Supplemental Pay**

**(1) Definitions.**

- (a) The definitions contained in Section A.4.01(1)-(4), (10), (12) and (13) shall apply to unclassified employees.
- (b) Supplemental pay. Pay in addition to the base rate for circumstances not reflected in the base rate or pay range. Such circumstances are identified under (4) and (5).

**(2) General Policy. The general policy provisions contained in Section A.4.02(1)-(3) and (5) shall apply to unclassified employees.**

**(3) Overtime for Unclassified Employees.**

- (a) Nonexempt Employees. Overtime pay for employees who are nonexempt from the overtime provisions of the FLSA shall be in accordance with the provisions of the FLSA and related federal regulations. See Chapter 516 of the Wisconsin Personnel Manual for an explanation of these provisions.
- (b) Exempt Employees and Employees Not Covered by the FLSA.
  1. As provided in s. 20.923(16), Stats., the salary paid to any employee whose position is included under s. 20.923(2), (4), (4m), (5), (8), (9), (10) and (12), Stats., is deemed to compensate that employee for all work hours. No overtime compensation in the form of cash or compensatory time off may be paid to any such employee for hours worked in any workweek in excess of the standard basis of employment as specified in s. 230.35(5)(a), Stats.

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2. The salaries paid to exempt employees and employees not covered by the FLSA are generally intended to compensate for the total responsibilities of the position regardless of the number of hours worked. However, circumstances may exist where time off or cash payment for overtime hours is appropriate for certain employees identified in 3.01(2). Section A.4.03(2)(c) shall be used by agencies as a basis to establish practices for additional compensation for overtime hours. Time off or cash payment authorized in Section A.4.03(2)(c) for similar positions in the classified service may be granted to exempt employees and employees not covered by the FLSA at the discretion of the appointing authority.
3. Appointing authorities shall have the discretion in approving scheduled use of time off earned in lieu of cash payment for overtime hours. Time off earned in lieu of cash payment for overtime hours which cannot be scheduled by the appointing authority within 12 months after the end of the calendar year in which the time is earned shall be paid in cash at the employee's current regular rate times the unused time off hours earned.

**(4) Weekend and Night Differential for Unclassified Employees.**

- (a) Weekend Differential. Except as provided in (c), below, employees identified in 3.01(2) may be paid up to 45 cents per hour for all weekend work hours.
- (b) Night Differential. Except as provided in (c), below, employees identified in 3.01(2) may be paid up to 30 cents per hour for all night hours worked. To qualify for night differential between the hours of 6:00 p.m. and 12:00 midnight, an employee must be assigned a minimum of two work hours between 6:00 p.m. and 1:00 a.m.
- (c) Employees identified under s. 20.923(10), Stats., are not eligible for weekend or night differential.

**(5) Supplemental Pay Provisions for Supervisory Attorneys**

Incumbents of Attorney positions under 3.01(2) who supervise one or more permanent attorneys are eligible to receive a responsibility add-on in

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accordance with the supplemental pay provisions for nonrepresented Attorneys in the classified service under Section A. of this Plan.

Decisions to grant and adjust supplemental pay for supervisory assistant district attorneys and deputy district attorneys are subject to the review and approval of the agency (i.e., Department of Administration) responsible for the general program operations relating to Chapter 978, Stats. The agency may elect to publish decision-making criteria consistent with Section A of this Plan and delegate in writing certain such decisions to some or all appointing authorities of assistant and deputy district attorneys.

**4.00 Benefit Provisions**

**4.01 Health Insurance Premiums**

As provided under Chapter 40, Stats., and this plan, the provisions for state payment of health insurance premiums are identical to the provisions for nonrepresented permanent classified employees. See Section A. 5.01. of this Plan. This provision shall also apply to employees not covered by a collective bargaining agreement and whose health insurance premiums are not determined under s. 230.12, Stats.

**4.02 Retirement Contributions**

- (1) As provided under s. 40.05(1)(b), Stats., and this plan, the state payment for employee retirement contributions shall equal 5% of the earnings for creditable service of each participating employee.
- (2) The State shall pay the 1% benefit adjustment contribution required by s. 40.05(2m), Stats., for participating employees whose formula rate is determined under s. 40.23(2m)(e)1 and 3, Stats.